

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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David CARTER,

Plaintiff,

-against-

DEMAITRE, N.Y.C. Correction Officer,
Shield #4857,

Defendant.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: _____ 1/28/2013

12-CV-07056 (RJS)(SN)

REPORT &
RECOMMENDATION

SARAH NETBURN, United States Magistrate Judge:

On January 17, 2013, *pro se* plaintiff David Carter wrote to the Court, stating that he “no longer wish[es] to pursue” this case and requesting that it be dismissed. The letter is attached to this report and recommendation. The Court interprets this letter as a request to dismiss the case pursuant to Federal Rule of Civil Procedure 41(a)(2), which states that “[e]xcept as provided in Rule 41(a)(1), an action may be dismissed at the plaintiff’s request only by court order, on terms that the court considers proper.” In light of Carter’s letter, I recommend that this case be dismissed without prejudice, with leave to reopen the case within 30 days.

Carter is reminded that, even if the case is dismissed under Rule 41(a)(2), he remains responsible for paying the case’s filing fee pursuant to 28 U.S.C. § 1915(b)(1) (“if a prisoner brings a civil action . . . in forma pauperis, the prisoner shall be required to pay the full amount of a filing fee”).

SO ORDERED.



SARAH NETBURN
United States Magistrate Judge

DATED: New York, New York
January 28, 2013

cc: David Carter
DIN #12-A-5083
Downstate Correctional Facility
Box F
Fishkill, NY 12525-0445

Dear Clerk of the Court, January 17th 2013
Honorable Magistrate Judge } 12.civ.7056
Sarah Netburn } (RJS)(SN)

I no longer wish to pursue
the above matter. Please dismiss
the above case.

Pro SE
David Carter

VIA U.S. MAIL

CC: Assistant Corporation Counsel
Daniel Passeser,
Special Federal Litigations
New York City Law Department
100 Church Street
N.Y., N.Y. 10007